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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,159	12/31/2001	Shmuel Shaffer	062891.0642	9350

5073 7590 10/26/2004

BAKER BOTTS L.L.P.
 2001 ROSS AVENUE
 SUITE 600
 DALLAS, TX 75201-2980

EXAMINER

MANOSKEY, JOSEPH D

ART UNIT PAPER NUMBER

2113

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,159

Applicant(s)

SHAFFER ET AL.

Examiner

Joseph Manoskey

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/23/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 35 recites the limitation "the sequence of pointers" in the second line. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-8, 12-19, 23-30, 34, and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Goldszmidt et al., U.S. Patent 6,195,680, hereinafter referred to as "Goldszmidt".

6. Referring to claim 1, Goldszmidt teaches a method for real-time data streams, including video conferencing, this is interpreted as Voice Over Internet Protocol (See Col. 1, lines 45-57 and Col. 2, lines 65-67). Goldszmidt discloses the client being provided with a primary and secondary server identifier, this is interpreted as providing a first pointer, the first pointer directing a terminal unit to access a first Internet server and providing a backup pointer, the backup pointer directing the terminal unit to access a corresponding backup Internet server (See Fig. 1b and Col. 7, lines 1-4). Goldszmidt also discloses initially connecting to the primary server, this is interpreted as accessing the first Internet server (See Col. 7, lines 1-4). Finally Goldszmidt teaches the client detecting a failure and switching to the alternate server, this is interpreted as upon system failure, automatically accessing the backup Internet server (See Col. 3, lines 18-21).

7. Referring to claim 2, Goldszmidt discloses the use of URLs as the pointers to the servers (See Col. 13, lines 6-9).

8. Referring to claim 3, Goldszmidt teaches the failure being caused by a drop in the bit rate, this is interpreted as being caused by server time-out error (See Col. 9, lines 10-14).

9. Referring to claim 4, Goldszmidt discloses the servers as stream servers and the failure occurring in the servers, this is interpreted as a first call manager is configured to operate the first internet server and the system failure comprises a first call manager failure (See Col. 3, lines 33-35 and lines. 50-55).

10. Referring to claim 5, Goldszmidt teaches dynamically switching to an alternate server when a server fails, this is interpreted as pushing the backup pointer to the terminal unit upon the system failure (See Co. 3, lines 18-21).

11. Referring to claim 6, Goldszmidt discloses the servers as stream servers and the failure occurring in the servers and dynamically switching to an alternate server when a server fails, this is interpreted as a backup call manager is configure to operate a corresponding backup Internet server, further comprising upon system failure, automatically rehomeing to the backup call manager (See Col. 3, lines 18-21, 33-35, and 50-55).

12. Referring to claim 7, Goldszmidt teaches the identifier characterizing the set of servers containing the secondary server for the client, this is interpreted as further

comprising providing a plurality of backup pointers, each backup pointer directing the terminal unit to access a corresponding backup Internet server (See Col. 7, lines 1-5).

13. Referring to claim 8, Goldszmidt discloses dynamically switching to an alternate server when a server fails, this is interpreted as automatically accessing a backup call manager upon the system failure (See Col. 3, lines 18-21).

14. Referring to claim 12, Goldszmidt teaches a system for real-time data streams, including video conferencing, this is interpreted as Voice Over Internet Protocol (See Col. 1, lines 45-57 and Col. 2, lines 65-67). Goldszmidt discloses the client being provided with a primary and secondary server identifier, this is interpreted as providing a first pointer, the first pointer directing a terminal unit to access a first Internet server and providing a backup pointer, the backup pointer directing the terminal unit to access a corresponding backup Internet server (See Fig. 1b and Col. 7, lines 1-4). Goldszmidt also discloses initially connecting to the primary server, this is interpreted as accessing the first Internet server (See Col. 7, lines 1-4). Finally Goldszmidt teaches the client detecting a failure and switching to the alternate server, this is interpreted as upon system failure, automatically accessing the backup Internet server (See Col. 3, lines 18-21).

15. Referring to claim 13, Goldszmidt discloses the use of URLs as the pointers to the servers (See Col. 13, lines 6-9).

16. Referring to claim 14, Goldszmidt teaches the failure being caused by a drop in the bit rate, this is interpreted as being caused by server time-out error (See Col. 9, lines 10-14).

17. Referring to claim 15, Goldszmidt discloses the servers as stream servers and the failure occurring in the servers, this is interpreted as a first call manager is configured to operate the first internet server and the system failure comprises a first call manager failure (See Col. 3, lines 33-35 and lines. 50-55).

18. Referring to claim 16, Goldszmidt teaches dynamically switching to an alternate server when a server fails, this is interpreted as pushing the backup pointer to the terminal unit upon the system failure (See Co. 3, lines 18-21).

19. Referring to claim 17, Goldszmidt discloses the servers as stream servers and the failure occurring in the servers and dynamically switching to an alternate server when a server fails, this is interpreted as a backup call manager is configure to operate a corresponding backup Internet server, further comprising upon system failure, automatically rehomeing to the backup call manager (See Col. 3, lines 18-21, 33-35, and 50-55).

20. Referring to claim 18, Goldszmidt teaches the identifier characterizing the set of servers containing the secondary server for the client, this is interpreted as further comprising providing a plurality of backup pointers, each backup pointer directing the terminal unit to access a corresponding backup Internet server (See Col. 7, lines 1-5).

21. Referring to claim 19, Goldszmidt discloses dynamically switching to an alternate server when a server fails, this is interpreted as automatically accessing a backup call manager upon the system failure (See Col. 3, lines 18-21).

22. Referring to claim 23, Goldszmidt teaches a system for real-time data streams, including video conferencing that includes software (logic) embedded on a computer-readable medium, this is interpreted as Voice Over Internet Protocol (See Col. 1, lines 45-57, Col. 2, lines 65-67, and Col. 9, lines 23-34). Goldszmidt discloses the client being provided with a primary and secondary server identifier, this is interpreted as providing a first pointer, the first pointer directing a terminal unit to access a first Internet server and providing a backup pointer, the backup pointer directing the terminal unit to access a corresponding backup Internet server (See Fig. 1b and Col. 7, lines 1-4). Goldszmidt also discloses initially connecting to the primary server, this is interpreted as accessing the first Internet server (See Col. 7, lines 1-4). Finally Goldszmidt teaches the client detecting a failure and switching to the alternate server, this is interpreted as upon system failure, automatically accessing the backup Internet server (See Col. 3, lines 18-21).

23. Referring to claim 24, Goldszmidt discloses the use of URLs as the pointers to the servers (See Col. 13, lines 6-9).

24. Referring to claim 25, Goldszmidt teaches the failure being caused by a drop in the bit rate, this is interpreted as being caused by server time-out error (See Col. 9, lines 10-14).

25. Referring to claim 26, Goldszmidt discloses the servers as stream servers and the failure occurring in the servers, this is interpreted as a first call manager is configured to operate the first internet server and the system failure comprises a first call manager failure (See Col. 3, lines 33-35 and lines. 50-55).

26. Referring to claim 27, Goldszmidt teaches dynamically switching to an alternate server when a server fails, this is interpreted as pushing the backup pointer to the terminal unit upon the system failure (See Co. 3, lines 18-21).

27. Referring to claim 28, Goldszmidt discloses the servers as stream servers and the failure occurring in the servers and dynamically switching to an alternate server when a server fails, this is interpreted as a backup call manager is configure to operate a corresponding backup Internet server, further comprising upon system failure,

automatically rehome to the backup call manager (See Col. 3, lines 18-21, 33-35, and 50-55).

28. Referring to claim 29, Goldszmidt teaches the identifier characterizing the set of servers containing the secondary server for the client, this is interpreted as further comprising providing a plurality of backup pointers, each backup pointer directing the terminal unit to access a corresponding backup Internet server (See Col. 7, lines 1-5).

29. Referring to claim 30, Goldszmidt discloses dynamically switching to an alternate server when a server fails, this is interpreted as automatically accessing a backup call manager upon the system failure (See Col. 3, lines 18-21).

30. Referring to claim 34, Goldszmidt teaches a method for real-time data streams, including video conferencing, this is interpreted as Voice Over Internet Protocol (See Col. 1, lines 45-57 and Col. 2, lines 65-67). Goldszmidt discloses the servers as stream servers and the failure occurring in the servers, this is interpreted as providing a plurality of call managers, each including an Internet server for providing services for a number of telephony devices (See Col. 3, lines 33-35 and lines. 50-55). Goldszmidt also teaches having client agents switch to alternate servers when one become overloaded to balance the load, this is interpreted as detecting a load imbalance between the Internet servers and directing a terminal unit of a subset of telephony devices to shift

from an overloaded Internet server to an underloaded Internet server in response to at least the load imbalance (See Col. 3, lines 22-26).

31. Referring to claim 35, Goldszmidt discloses the client being provided with a primary and secondary server identifier (See Fig. 1b and Col. 7, lines 1-4) and Goldszmidt teaches the client detecting a imbalance and switching to the alternate server, this is interpreted as wherein the terminal units are directed by changing the sequence of pointers in a list of pointers (See Col. 3, lines 22-26).

Claim Rejections - 35 USC § 103

32. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

33. Claims 9-11, 20-22, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldszmidt in view of Dezonno et al. U.S. Patent Application Publication 2003/0103489, hereinafter referred to as "Dezonno".

34. Referring to claim 9, Goldszmidt teaches all the limitations (See rejection of claim 4) except for sending a periodic keep-alive message between the terminal unit and the first call manager, however Goldszmidt does teach the failure of the server being

detected by using any known method but is silent on using keep-alive messages specifically (See Col. 9, lines 9-10). Dezonno teaches a VoIP environment that uses keep-alive message for detecting a network failure (See page 1 paragraph 0002 and page 3, paragraph 0030). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the keep-alive messages of Dezonno with the detecting of faults in the system of Goldszmidt. This would have been obvious to one of ordinary skill in the art at the time of the invention to do because it is a known method used to detect network failures (See Dezonno, page 3, paragraph 0030).

35. Referring to claim 10, Goldszmidt and Dezonno teach all the limitations (See rejection of claim 9) including the system failure being a keep-alive failure (See Dezonno, page 3, paragraph 0030).

36. Referring to claim 11, Goldszmidt and Dezonno disclose all the limitations (See rejection of claim 9) including wherein the keep-alive messages include the backup pointer. Goldszmidt teaches switching after detecting a failure with the identifier of the secondary server, this is interpreted as including the backup point with the keep-alive message (See Col. 7, lines 1-10).

37. Referring to claim 20, Goldszmidt teaches all the limitations (See rejection of claim 15) except for sending a periodic keep-alive message between the terminal unit and the first call manager, however Goldszmidt does teach the failure of the server

being detected by using any known method but is silent on using keep-alive messages specifically (See Col. 9, lines 9-10). Dezonno teaches a VoIP environment that uses keep-alive message for detecting a network failure (See page 1 paragraph 0002 and page 3, paragraph 0030). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the keep-alive messages of Dezonno with the detecting of faults in the system of Goldszmidt. This would have been obvious to one of ordinary skill in the art at the time of the invention to do because it is a known method used to detect network failures (See Dezonno, page 3, paragraph 0030).

38. Referring to claim 21, Goldszmidt and Dezonno teach all the limitations (See rejection of claim 20) including the system failure being a keep-alive failure (See Dezonno, page 3, paragraph 0030).

39. Referring to claim 22, Goldszmidt and Dezonno disclose all the limitations (See rejection of claim 20) including wherein the keep-alive messages include the backup pointer. Goldszmidt teaches switching after detecting a failure with the identifier of the secondary server, this is interpreted as including the backup point with the keep-alive message (See Col. 7, lines 1-10).

40. Referring to claim 31, Goldszmidt teaches all the limitations (See rejection of claim 26) except for sending a periodic keep-alive message between the terminal unit and the first call manager, however Goldszmidt does teach the failure of the server

being detected by using any known method but is silent on using keep-alive messages specifically (See Col. 9, lines 9-10). Dezonno teaches a VoIP environment that uses keep-alive message for detecting a network failure (See page 1 paragraph 0002 and page 3, paragraph 0030). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the keep-alive messages of Dezonno with the detecting of faults in the system of Goldszmidt. This would have been obvious to one of ordinary skill in the art at the time of the invention to do because it is a known method used to detect network failures (See Dezonno, page 3, paragraph 0030).

41. Referring to claim 32, Goldszmidt and Dezonno teach all the limitations (See rejection of claim 31) including the system failure being a keep-alive failure (See Dezonno, page 3, paragraph 0030).

42. Referring to claim 33, Goldszmidt and Dezonno disclose all the limitations (See rejection of claim 31) including wherein the keep-alive messages include the backup pointer. Goldszmidt teaches switching after detecting a failure with the identifier of the secondary server, this is interpreted as including the backup point with the keep-alive message (See Col. 7, lines 1-10).

Conclusion

43. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are closely related VoIP and server systems.

U.S. Patent 6,760,324 to Scott et al.

U.S. Patent App. Pub. 2002/0026515 to Michielsens et al.

U.S. Patent App. Pub. 2002/0002602 to Vange et al.

U.S. Patent App. Pub. 2003/0035414 to Beyda


U.S. Patent App. Pub. 2004/0199812 to Earl et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Manoskey whose telephone number is (571) 272-3648. The examiner can normally be reached on Mon.-Fri. (7:30am to 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDM
October 21, 2004


ROBERT BEAUSOLIEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100